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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6885 of 2007

The Sindhu Berojgar Vividh Seva

Sahakari Sanstha Ltd,Vengurla .. Petitioner

versus

The Additional Collector, Sindhudurga

and others .. Respondents

...

Mr.M.D. Parab for the petitioner.

Mr.V.A. Sonpal, AGP for respondent nos.1 to 3.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 4th October 2007

P.C.:

1. Heard learned counsel for the petitioner.

2. By this petition, the petitioner alleges that the respondents have wrongfully terminated the labour contract dated 9th September 2005 which is valid and in force for three years from the year 2005 to 2008. The action for termination of the contract appears to have been taken on account of misappropriation of foodgrains. If the petitioner is aggrieved by the termination, he is at liberty to

file a suit for a specific performance or damages, as it appropriate. Writ Petition for enforcement of contractual rights cannot be entertained.

3. Furthermore, disputed questions of fact are involved in the petition. It would be required to be decided whether there has been misappropriation of foodgrains as alleged and whether the petitioner is responsible for the same and whether the contract has been wrongfully terminated. Even assuming that the contract has been wrongfully terminated question of specific performance of the contract would be required to be decided. In the circumstances, the appropriate remedy of the petitioner for enforcement of the contract would be by way of a suit.

4. Learned AGP states that the petitioner had already filed a suit in respect of the termination. Learned counsel for the petitioner however submits that the petitioner has withdrawn the said suit. It is immaterial for us whether the petitioner has withdrawn the suit. Appropriate remedy for him was to continue the suit. By withdrawing the suit, he cannot seek a writ for enforcement of the contract.

4. For these reasons, the Writ Petition is rejected summarily.

(D.G. KARNIK, J)

(S.B. MHASE, J)